

# FELS

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Serving Agriculture in Labor Management Relations

## Our Workforce – Our Most Valuable Resource

### What's the plan to Make Sure We Have One?

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Farm Employers Labor Service



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## A lot had changed on the immigration landscape...

- AgJobs fell out of favor @ 2007...
- American Farm Bureau disengaged @ 2005
- We have had periodic, but steadily worsening labor shortages, in 2006 and 2012



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## A lot had changed on the immigration landscape...

- The housing crash caused the economy to tank, and workers stopped coming...
- The Mexican drug gangs made it dangerous to try to cross the border...



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## A lot had changed on the immigration landscape...

- The Mexican population got older (we all know farmwork is a young person's occupation)
- The Mexican economy got a little better...



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## A lot hasn't really changed at all...

- A very large percentage of our work force are not legally documented (shhh...)
- Most of us have I-9s because most of our employees have papers that can pass the “arm’s-length” test



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## Ag's been working on this problem for a long time...

- The '86 Immigration act legalized a lot of people (not everybody) who eventually went to work for somebody else
- The Replacement program was never turned on because there were so many fraudulent documents around
- The H-2a program is an ugly kid only it's mother (DOL) could love



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## Ag's been working on this problem for a long time...

- AgJobs, rightly or wrongly, became a synonym for “amnesty”
- And since about 2009, Ag's been holding on by our fingernails, waiting for something, anything to happen...



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## Where are We Now?

- DC Democrats want to make everybody citizens because they want them to vote for ????
- DC Republicans got religion after they got their rear-ends handed to them by the voters in November
- American Farm Bureau, as the largest general-interest farm organization in the U.S., figured it had better get back in the game



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## Where are We Now?

Throughout the summer and fall of 2012, representatives of state Farm Bureaus met and hammered out some basic principles for AFBF to advocate for immigration reform that will work for ag employers in every region and every commodity



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## Those Principals will Sound Familiar...

- Legalize those working in agriculture who came here illegally, so they can work and not be separated from their families and communities
- Recognize that, as after the '86 immigration bill, workers will age-out and move on, so we need a future-flow worker program to replace them



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- “Legalized” or “adjusted” workers will enjoy the same protections of law that all workers enjoy in whatever state they’re working, and all federal laws
- “Future-flow” workers will be admitted on the basis of need identified by farm employers, after they make an attempt to recruit U.S. workers
- Once admitted, they will be free to work for any employer authorized by the program to employ them



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- Employment is strictly “at-will” with whatever restrictions apply to all employees under California or federal law
- Wage and Hour protections are identical to all other workers
- No special wage, housing, transportation, or minimum work requirements (50% rule)



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- Intended to mimic, as nearly as possible, existing labor flows that allow for the “just-in-time” hiring flexibility we must have in California (and, I suspect, a lot of other places too...)
- States at the end of the migrant labor streams (Washington, New York) wanted the option of a contract if that was mutually desired by employer and employee, and that was included



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## Yes, it's very pro-employer...

That was the plan; start with a fresh sheet of paper with a new player on the field, and respond to the inevitable “push-back”



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- The AFBF Board approved it as AFBF policy and AFBF staff began discussion in earnest with DC colleagues
- West Coast v. Southeast suspicions, which we encountered in trying to unify AFBF, surfaced again when AFBF started discussions with other DC ag groups
- In the end, the industry decided unity was better than disunity



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## The Result?

The **Agriculture Workforce Coalition** was formed on January 11 to sell Congress on the rough outlines of what I've described earlier



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## Who's In AWC?

- American Farm Bureau Federation
- American Nursery & Landscape Association
- Florida Fruit & Vegetable Association
- National Council of Agricultural Employers
- National Council of Farmer Cooperatives



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## Who's In AWC?

- National Milk Producers Federation
- USA Farmers
- U.S. Apple Association
- United Fresh Produce Association
- Western Growers Association
- Western United Dairymen



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## Who's In AWC?

### Coalition Partner:

- Agricultural Coalition for Immigration Reform (ACIR)

### Coalition Supporters:

- American Agri-Women
- California Avocado Commission
- California Grape and Tree Fruit League
- Co Bank
- Farm Credit East
- Produce Marketing Association



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## What Does AWC Advocate?

*The Agriculture Workforce Coalition (AWC) brings together organizations representing the diverse needs of agricultural employers across the country. AWC serves as the unified voice of agriculture in the effort to ensure that America's farmers, ranchers and growers have access to a stable and secure workforce.*



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## What Does AWC Advocate?

- *Adjustment in status to be earned by current agricultural employees who presently lack legal status and*
- *A program to ensure an adequate farm workforce in the future.*
- *Ensure that all types of producers—including both those with seasonal labor needs and ones with year-round labor needs—have access to the workforce they need to remain productive and competitive. (AWC Website)*



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## What Does AWC Advocate?

### *Agricultural Worker Program*

- *Agricultural Worker Visa Program (“AWP”) is uncapped*
- *Employer and employee choice and flexibility by including two options:*
  - *“At-Will” employees have the freedom to move from employer to employer*
    - *They would have a visa term of up to 11 months*
    - *USDA registered employers*
    - *Return home for 30 days.*



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## What Does AWC Advocate?

### *Agricultural Worker Program*

- *Employer and employee choice and flexibility by including two options:*
  - *Contract employees*
    - *work for an employer for a fixed period of time*
    - *visa term of up to 12 months (renewable indefinitely), a*
    - *Return to their home country for at least 30 days over a 3-year period. (AWC Website)*

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**40** YEARS  
1970-2010  
**FELS**  
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## What Does AWC Advocate?

### *Current Workforce*

*AWC supports adjustment of status for unauthorized agricultural workers currently in the U.S.:*

- *These workers have a future obligation to work for a number of days annually in agriculture for several years*
- *Upon completion of work obligation, the workers could obtain permanent legal status and the right to work in whatever industries they choose, including agriculture. (AWC Website)*



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## The Gang of Eight

On Monday in DC, a bi-partisan group of Senators unveiled an immigration reform framework with some interesting features:

- “Path to Citizenship”;
- ”...better recognize the importance of characteristics that will help build the American economy and strengthen American families...” (Bipartisan Framework for Immigration Reform)



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## The Gang of Eight

On Monday in DC, a bi-partisan group of Senators unveiled an immigration reform framework with some interesting features:

- Mandatory, universal e-Verify
- "...improved process for admitting future workers to serve our nation's workforce needs, while simultaneously protecting all workers." (Bipartisan Framework for Immigration Reform)



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## The Gang of Eight

A couple of interesting things made it into the document:

- **“...agricultural workers who commit to the long term stability of our nation's agricultural industries will be treated differently than the rest of the undocumented population because of the role they play in ensuring that Americans have safe and secure agricultural products to sell and consume...”**
- **“...These individuals will earn a path to citizenship through a different process under our new agricultural worker program...”(Bipartisan Framework for Immigration Reform)**



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## The Gang of Eight

A couple of interesting things made it into the document:

- “...our legislation would create a workable program to meet the needs of America's agricultural industry, including dairy to find agricultural workers when American workers are not available to fill open positions...”
- “...permit workers who have succeeded in the workplace and contributed to their communities over many years to earn green cards...”  
(Bipartisan Framework for Immigration Reform)



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## The President

- The President's announcement in Tuesday in Las Vegas specifically did not call for enhanced border security, nor for "operational control" of the border, as the Gang of Eight plan did
- But, it appears the President and the Gang of Eight agreed on more than they disagreed on



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## The “Take-Away”

- The “stars” align once every generation or so to allow really meaningful immigration reform
- It appears that’s happening now
  - Can Ag stay unified to tell Congress what we want with a single voice?
  - Or will we wind up with a red-headed bastard step-child like H-2a?



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